

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ANTONIO STRAWS, #310498,

Petitioner,

Civil No: 2:08-CV-10481
Honorable Gerald E. Rosen
Magistrate Judge R. Steven Whalen

v.

MARY BERGHUIS,

Respondent.

**OPINION & ORDER GRANTING PETITIONER'S MOTION
TO REOPEN AND AMEND HABEAS PETITION**

Petitioner Antonio Straws filed a *pro se* "Application for Writ of Habeas Corpus Under 28 U.S.C. §2254" in an effort to challenge his state court conviction for armed robbery, carrying a concealed weapon, felony firearm, and felony firearm 2nd offense. He is presently incarcerated at E.C. Brooks Correctional Facility in Muskegon, Michigan and is serving a term of nine to thirty years' imprisonment for the armed robbery conviction, two to seven and half years' imprisonment for carrying a concealed weapon, two years for the felony firearm conviction, and five years' imprisonment for the felony firearm (2nd offense) conviction.

Contemporaneously with his habeas petition, Petitioner filed a "Request to Stay and Abey Federal Habeas Corpus Proceedings Until State Remedies are Exhausted" claiming that he had filed a motion for relief from judgment which was pending in the state trial court, and he was seeking to exhaust his remedies. The Court granted Petitioner's request for

a stay of proceedings [dkt. #7, 7/1/08 Order] and directed that the petition be held in abeyance provided that Petitioner: (1) ask the court to lift the stay within sixty days of exhausting his state court remedies; and (2) pursue habeas relief. *Id.* Pending before the Court is Petitioner's "Motion to Seek the Reopening and Amending of Petition for Writ of Habeas Corpus 28 USC 2254"

Petitioner has complied with the directive of this Court by filing the pending motion requesting the stay be lifted. Petitioner has also properly filed a combined motion to amend his habeas petition as a matter of course. Fed. R. Civ. P. 15(a)(1). Therefore, his motion is granted. However, although Petitioner has articulated in his motion the habeas claims he is raising for review, he did not file along with his motion a copy of the amended habeas petition, or a supporting brief. The Court cannot reach the merits of Petitioner's claims if the issues are unaccompanied by some effort to develop argumentation. See *Dillery v. City of Sandusky*, 398 F.3d 562, 569 (6th Cir. 2005). It is not the job of this Court "to go on a fishing expedition through the record to find facts favoring or disfavoring arguments" on appeal in a habeas proceeding, rather, it is the job of the Petitioner "to supply in its brief the relevant record cites in order that" the Court may properly review the arguments. *Green v. Johnson*, 160 F.3d 1029, 1036, fn. 2 (5th Cir. 1998). Generally, issues which are not adequately developed in a brief are deemed waived. *Rojem v. Gibson*, 245 F.3d 1130, 1141, fn. 8 (10th Cir. 2001). Therefore, Petitioner has thirty days in which to file his amended habeas petition and supporting brief with the Court or else the habeas petition will be subject to dismissal.

Accordingly,

IT IS ORDERED that Petitioner's "Motion to Seek the Reopening and Amending of Petition for Writ of Habeas Corpus 28 USC 2254" [Doc. #8] is **GRANTED**.

IT IS FURTHER ORDERED that Petitioner has thirty (30) days in which to file his amended habeas petition and supporting brief with the Court or else this matter will be subject to dismissal.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: January 28, 2010

CERTIFICATE OF SERVICE

I hereby certify that on January 38, 2010, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:
Brad H. Beaver, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants:
Antonio Straws, #310498, Earnest C. Brooks Correctional Facility, 2500 S. Sheridan Drive, Muskegon Heights, MI 49444.

s/Ruth A. Brissaud
Ruth A. Brissaud, Case Manager
(313) 234-5137